

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1197

United States of America,

Appellee,

v.

Onorio Noriega-Sanchez, also
known as Victor Noriega, also
known as Martin Rocha, also known
as Jose Lamberto Noriega-Leon,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska

[UNPUBLISHED]

Submitted: December 6, 2002

Filed: December 23, 2002

Before McMILLIAN, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

Onorio Noriega-Sanchez appeals from the final judgment entered in the District Court¹ for the District of Nebraska after he pleaded guilty to conspiring to possess with intent to distribute 500 grams or more of a mixture containing

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

methamphetamine, in violation of 21 U.S.C. §§ 841, 846. The district court sentenced Noriega-Sanchez to 120 months imprisonment, the statutory minimum, and 5 years supervised release. His counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), raising for reversal that Noriega-Sanchez's sentence is too severe. For the reasons discussed below, we affirm.

Initially, we note that Noriega-Sanchez stipulated to a drug quantity that triggered the imposition of the statutory minimum sentence. See United States v. Nguyen, 46 F.3d 781, 783 (8th Cir. 1995) (defendant who explicitly and voluntarily exposes himself to specific sentence may not challenge that punishment on appeal). In any event, Noriega-Sanchez's severity argument fails, because mandatory minimum penalties for drug offenses do not violate the Eighth Amendment. See United States v. Johnson, 988 F.2d 859 (8th Cir. 1993) (per curiam).

Having found no nonfrivolous issues following our independent review of the record in accordance with Penson v. Ohio, 488 U.S. 75, 80 (1988), we grant counsel's motion to withdraw. We further deny Noriega-Sanchez's motion for appointment of new counsel.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.